EXHIBIT A

Dockets.Justia.com

BOIES, SCHILLER & FLEXNER LLP

0 NORTH PEARL STREET • 4TH FLOOR • ALBANY, NY 12207 • PH. 518.434.0600 • FAX 518.434.0665

April 14, 2006

VIA FACSIMILE & FIRST CLASS MAIL
Kenneth L. Gelhaus, Esq.
McNamee, Lochner, Titus & Williams, PC
677 Broadway, 5th Floor
Albany, New York 12207

RE: Priddis Music, Inc. v. Trans World Entertainment Corporation, 1:05-CV-491

Dear Ken:

I write regarding Priddis's answers to TWEC's First Set of Interrogatories and Request for the Production of Documents. As William Hurst of your Firm candidly admitted in his email forwarding the answers, Priddis's responses to TWEC's interrogatories are inadequate and must be supplemented. For example, Priddis has not supplied any meaningful response to Interrogatory No. 1, which simply asks Priddis to specifically detail each instance in which plaintiff alleges or contends that TWEC breached an agreement with Priddis; including the date of the alleged breach, all persons involved in the alleged breach, and the specific manner in which TWEC is alleged to have breached the agreement. Given the breadth of Priddis's breach of contract claim (e.g, ¶ 136 of the Complaint), TWEC cannot meaningfully prepare a defense to this claim without the basic and necessary facts called for in the above Interrogatory. Similarly, absent specific and substantive answers to Interrogatories No. 2 & 3, TWEC has no ability to defend itself against Priddis's allegations that it improperly returned merchandise to Priddis.

Accordingly, until Priddis supplements its answer to TWEC's interrogatories, TWEC is not in a position to schedule any depositions in the case. Please confirm that Priddis will supplement its responses to TWEC's interrogatories no later than April 21, 2006. Once Priddis has supplemented its interrogatories, TWEC will then be in a position to set deposition dates. As we discussed, and consistent with your April 3 email, TWEC will take the deposition of Mr. Priddis either the week of May 8-12 or May 22-26. Additionally, TWEC will take the deposition of Ms. Price either the first or last week of May. Please let me know if you have any questions.

Very truly yours,

J. Matthew Donohue

EXHIBIT B

BOIES, SCHILLER & FLEXNER LLP

O NORTH PEARL STREET • 4TH FLOOR • ALBANY, NY 12207 • PH. 518.434.0600 • FAX 518.434.0665

May 1, 2006

VIA FACSIMILE and US MAIL

Kenneth L. Gellhaus, Esq.
McNamee, Lochner, Titus & Williams, P.C.
677 Broadway, 5th Floor
Albany, New York 12207

RE: Priddis Music, Inc. v. Trans World Entertainment Corporation

Dear Ken:

I write in response to your letter to the Court dated April 26 requesting that the Court schedule a conference with the parties to resolve certain discovery issues. Your request for a discovery conference is premature inasmuch as you failed to apprise TWEC of any objection that Priddis had with TWEC discovery responses. Please immediately delineate any specific objection that Priddis has to TWEC's discovery responses to date so that TWEC may evaluate Priddis's objection before the discovery conference on May 4, 2006.

Additionally, Priddis's request for judicial intervention is surprising in light of the insufficiency of your own discovery efforts to date. As you know, this office has made several written objections to your own discovery responses to which Priddis has yet to respond. On April 18, 2006, Mr. Donohue wrote to you regarding your apparent omission of the "extensive audits" purportedly relied upon by your client in determining the amount and nature of damages in this action from the document production. Further, on April 14, 2006, Mr. Donohue wrote to you regarding your answers to TWEC's First Set of Interrogatories and Production of Documents which, as conceded by your office upon service, were inadequate and required supplementation. As stated in Mr. Donohue's April 14 letter, TWEC cannot prepare a meaningful defense to your allegations without the basic facts called for in the interrogatories. Neither of these outstanding issues has been addressed to date. Further, I understand that you represented to Mr. Donohue that you had discovered additional relevant documents that have not yet been produced. Please indicate when we can expect to receive those additional documents as well as supplemental responses to TWEC's interrogatories.

Kenneth L. Gellhaus, Esq.
McNamee, Lochner, Titus & Williams, P.C.
May 1, 2006
Page 2

With regard to your recent deposition notices of a 30(b) (6) representative of TWEC as well as several TWEC employees, your suggestion of May 12, 2006 will not work for our schedule. Further, Mike Berrada, Russ Kellar, Julie Landau and Joanne Maggio are no longer employed by TWEC. I have contacted TWEC, am in the process of coordinating the various schedules of those deponents who remain employed by the company and will propose alternative dates as soon as I can.

Sincerely,

Michael Endler

MIE/cap

S:\wpdata\7038000\Priddis\Counselors ltr.doc

EXHIBIT C

BOIES, SCHILLER & FLEXNER LLP

O NORTH PEARL STREET • 4TH FLOOR • ALBANY, NY 12207 • PH. 518.434.0600 • FAX 518.434-0665

May 5, 2006

VIA HAND DELIVERY

Kenneth L. Gellhaus, Esq.
Michael Hall, Esq.
McNamee, Lochner, Titus & Williams, P.C.
677 Broadway, 5th Floor
Albany, New York 12207

RE: Priddis Music, Inc. v. Trans World Entertainment Corporation

Counselors:

Please accept this letter as a memorialization of the issues we discussed by telephone yesterday with regard to the discovery that has thus far taken place in the above captioned matter.

Initially, you indicated that you had certain questions with regard to the discovery produced by Trans World Entertainment Corp. ("Trans World"). I indicated that, to the extent you had specific objections or questions, I will take those concerns under advisement and, should those concerns and questions be reasonably related to the claims or defenses, would attempt to supply additional clarification.

Also, I outlined the specific objections that Trans World has with the Priddis production. These objections have been made expressly in previous correspondence, but I will reiterate them here. First, I asked about the apparent omission of documents from your production related to the "audit" purportedly undertaken by your client in relation to his contractual arrangement with Trans World. This "audit" was referenced in the Complaint (*see* ¶ 119) as the basis for Priddis's damage calculation. You indicated in our telephone conversation that the use of the term "audit" might have created some confusion as a result of "semantics." I proposed that, regardless of terminology, to the extent that any documents exist (including but not restricted to notes, work papers, memoranda, calculations, etc. ...), they should be produced. You indicated that you will provide clarification on that issue.

Second, I objected to the Priddis interrogatory responses. Trans World served the interrogatories in an attempt to gain insight into your client's actual allegations. To that end, the interrogatories asked for specific information with regard to the purported contract breaches of Trans World; certainly, a reasonable request for a party defending itself in a contract action. For example, Interrogatory No. 1 simply asks that Priddis describe the actions that he claims are breaches of the contract. The Interrogatory requests (1) the date of the breach; (2) the persons involved; and (3) the specific manner in which Trans World is alleged to have been in breach. In response, Priddis offers nothing more than general time frames (*e.g.* 1999 – 2004) and vague explanations. Those responses are simply not adequate to apprise Trans World of the actions that your client claims have been in breach of the clear and unambiguous terms of the agreement that form the basis of this action.

Neither do the balance of the interrogatories offer any more specific information. Citing to a bates range of approximately 6,000 documents is not a legitimate interrogatory response under Federal Rule 33(d) and does not serve to inform Trans World of the basis of the claims against it. Moreover, it is not apparent how any of the referenced documents serve to answer the interrogatory questions.

As I indicated on our phone call, it is our position that the Priddis interrogatory responses are severely deficient and do not serve to adequately inform Trans World of the claims against it – a minimum burden for a plaintiff. As such, I reiterate my position that, absent supplementary interrogatory responses that adequately address its insufficiencies served on us by the close of business Tuesday, May 9, the scheduled deposition of Mr. Priddis on May 12, 2006 will not go forward.

Third, I indicated that I understand you have obtained a supplementary production of responsive documents. You indicated that those documents would be produced to me yesterday.

I look forward to receiving from you the supplementary documents as well as revised interrogatory responses. Should you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

Robert C. Tietjen

RCT/cap
S:\wpdata\7038000\Priddis\Gellhaus Ltr 10.doc

EXHIBIT D

BOIES, SCHILLER & FLEXNER LLP
10 NORTH PEARL STREET • 4TH FLOOR • ALBANY, NY 12207 • PH. 518.434.0600 • FAX 518.434.0665

May 9, 2006

VIA FACSIMILE and FIRST CLASS MAIL

Michael Hall, Esq.
McNamee, Lochner, Titus & Williams, P.C.
677 Broadway, 5th Floor
Albany, New York 12207

RE: **Priddis Music, Inc. v. Trans World Entertainment Corporation**

Michael:

Please accept this letter as a confirmation that you have not served supplementary interrogatory responses as of today. As has been outlined in our previous written and oral communications on the issue, the interrogatories served to date are inadequate and do not provide the necessary factual predicate for this firm to properly defend this case or prepare for and depose your client on Friday, May 12. Consequently, and as reflected in your e-mail to me today, that deposition has been cancelled. Your email to me did not indicate when supplemented interrogatories would be provided. Please let me know when I can expect them so that we can schedule accordingly.

If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

Robert Tietjen

RT/lmr

EXHIBIT E

BOIES, SCHILLER & FLEXNER LLP
O NORTH PEARL STREET • 4TH FLOOR • ALBANY, NY 12207 • PH. 518.434.0600 • FAX 518.434.0665

May 19, 2006

VIA FACSIMILE and FIRST CLASS MAIL

Kenneth L. Gellhaus, Esq.
Michael Hall, Esq.
McNamee, Lochner, Titus & Williams, P.C.
677 Broadway, 5th Floor
Albany, New York 12207

RE: Priddis Music, Inc. v. Trans World Entertainment Corporation

Counselors:

I write regarding Priddis's answers to Trans World's First Set of Interrogatories and Request for the Production of Documents. As you are aware, it is Trans World's position that those answers are patently deficient and require a significant supplementary response. That position has been expressed as far back as early April and has remained consistent. You have indicated your intention to provide a supplementary response, but have not yet done so.

Please let me know when Trans World can expect to receive adequate responses to its interrogatories so that we can begin the process of scheduling depositions. The court's extension of the discovery should not be treated as an excuse to further delay the already overdue answers.

While we would rather not seek court intervention for discovery to which we are clearly entitled, if Trans World does not receive adequate supplementary answers to its interrogatory within a reasonable time, it will be forced to make a motion to compel those answers.

If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

Robert C. Tietjen

RCT/cap

S:\wpdata\7038000\Priddis\Counselors ltr3.doc

EXHIBIT F

BOIES, SCHILLER & FLEXNER LLP

) NORTH PEARL STREET • 4TH FLOOR • ALBANY, NY 12207 • PH. 518.434.0600 • FAX 518.434.0665

May 31, 2006

VIA FACSIMILE and FIRST CLASS MAIL

Kenneth L. Gellhaus, Esq.
Michael Hall, Esq.
McNamee, Lochner, Titus & Williams, P.C.
677 Broadway, 5th Floor
Albany, New York 12207

RE: **Priddis Music, Inc. v. Trans World Entertainment Corporation**

Counselors:

I write once again in regard to the deficient interrogatory answers served by you in the above captioned matter. Despite repeated requests you have yet to indicate when, or if, you plan on serving supplemental responses. It is my understanding that you do plan on submitting such responses. As you know, it is Trans World's intention to move to compel the production of supplementary interrogatory responses should you be unwilling to provide them voluntarily. As such, please either confirm or refute my understanding with regard to the supplemental responses.

Further, as noted, in my letter of May 19, 2006, it has been over two months since you have been on notice of Trans World's objections to the Priddis interrogatory responses. Given that time frame, and in order to avoid a situation where Trans World is prejudiced by insufficient time to review the responses prior to depositions, please be advised that unless adequate supplementary responses are served by the close of business Monday, June 5, 2006, it is Trans World's intention to move to compel the service. While it is always our desire to avoid judicial involvement in discovery matters, and while we sincerely hope to do so in this matter, your unacceptable delay in providing appropriate interrogatory responses and refusal to even indicate when, or if, those responses will be served, leaves us little choice.

If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

Robert C. Tietjen

RCT/cap
S:\wpdata\7038000\Priddis\Counselors ltr4.doc

EXHIBIT G

F

BOIES, SCHILLER & FLEXNER LLP

O NORTH PEARL STREET • 4TH FLOOR • ALBANY, NY 12207 • PH. 518.434.0600 • FAX 518.434.0665

June 8, 2006

VIA FACSIMILE and FIRST CLASS MAIL

Kenneth L. Gellhaus, Esq.
McNamee, Lochner, Titus & Williams, P.C.
677 Broadway, 5th Floor
Albany, New York 12207

RE: Priddis Music, Inc. v. Trans World Entertainment Corporation

Dear Ken:

I am in receipt of yours letter of June 5, 2006. I am somewhat confused, however, by the statements regarding your progress in this matter. The fact that you "have in [your] possession the information necessary to provide complete and detailed responses to the discovery demands" is hardly surprising, as you should have had that information from the onset of this case. Indeed, I would expect and hope that the information was available and organized prior to filing the complaint in this action. Further, you have been aware of the deficiency of your interrogatory responses since they were initially served on March 14, 2006. Thus, your "progress" in this matter following repeated requests from both myself and Matt Donohue is hardly noteworthy.

That being said, as we have no desire to call on the court for matters that are better handled between the parties, we will accept your representation as to the service of adequate interrogatories "next week." Hopefully, in the same spirit of cooperation, you will follow through on your promise and negate the need for court intervention.

As for your statements regarding Trans World's discovery response, the so-called detailed objections referenced in your letter are long overdue and we will respond appropriately when those objections are brought to our attention.

Sincerely,

Robert C. Tietjen

RCT/cap
S:\wpdata\7038000\Priddis\Correspondence\Counselors ltr5.doc

EXHIBIT H

BOIES, SCHILLER & FLEXNER LLP

NORTH PEARL STREET • 4TH FLOOR • ALBANY, NY 12207 • PH. 518.434.0600 • FAX 518.434.0665

July 14, 2006

VIA FACSIMILE and FIRST CLASS MAIL

Kenneth L. Gellhaus, Esq.
McNamee, Lochner, Titus & Williams, P.C.
677 Broadway, 5th Floor
Albany, New York 12207

RE: Priddis Music, Inc. v. Trans World Entertainment Corporation

Dear Ken:

I am in receipt of Plaintiff/Counterclaim-Defendant Priddis Music, Inc. First Amended Response to Defendant Counterclaim Plaintiff's First Set of Interrogatories and First Request for the Production of Documents ("Responses" or, individually "Response"). While I appreciate that you and your staff seem to have expended some energy compiling the documents, unfortunately neither the answers to interrogatories nor the citations to documents produced offer any real assistance in providing sufficient answers to the questions posed or in determining your client's specific claims because (1) the citation to massive numbers of documents in the Responses is both unhelpful and legally insufficient; and (2) the specific spreadsheets provided are obtuse, confusing and duplicative. Thus, because the Responses do not serve to answer the seemingly basic questions raised by Trans World's interrogatories, such as how and when they allegedly breached the purported contracts, they remain deficient and do not serve to satisfy your client's discovery obligations.

Initially, it is black letter law that a party cannot answer interrogatories by simply citing to a mass of documents. *See In re Savitt/Adler Litig.*, 176 F.R.D. 44, 49 (N.D.N.Y. 1997). That, of course, is exactly what was done in the Responses. For example, for a majority of the Responses to Trans World Interrogatory Number 1, Priddis cites to large quantities of documents (*see* Response 1(a) (1,764 documents); Response 3(a) (1,987 documents); Response 4(a) (46 documents); Response 5(a) (5,303 documents); Response 6(a) (170 documents); and Response 8(a) (575 documents). Likewise, Interrogatory Number 2 cites to 2,539 documents, Interrogatory Number 3 to 3,211documents and Interrogatory Number 4 cites to 213 documents.[1]

[1] These totals include those documents cited in the Responses to Interrogatories as well as those cited in Request for Documents Number 1. As you know, instead of simply answering the questions posed, several of the Interrogatory Responses refer to "documents produced in response to defendant's first request for documents." This citation is confusing, as it is unclear whether it refers solely to Document Request Number 1, which asks for "[a]ll documents identified in response to TWEC's interrogatories to plaintiff," or to the document production as a whole (which, of course, consists of significantly more documents). Further, it is unclear why the documents cited in the Interrogatory Responses are not consistent with those referenced in response to Document Request Number 1, which, as noted, asks for all documents identified in response to Trans World's interrogatories.

These types of wholesale references are inappropriate, inconsistent with Priddis's obligations under the law and simply unhelpful in the task for which they are purportedly offered. As such, they do not represent sufficient or acceptable Responses to Trans World's Interrogatories.

Second, and aside from the citation to generalized documents, the specific spreadsheets produced are extremely confusing and do not answer in any way the questions for which they are apparently offered. For your convenience, I will specify some of our objections to the specific documents provided.

TRANS WORLD INTERROGATORY NUMBER 1

This Interrogatory asked under Subsection (a) for "the date of the alleged breach" of the various agreements Priddis alleges Trans World to have breached. Like all of the Interrogatories posed, this question was designed simply to determine how and when your client claims Trans World is alleged to have breached the applicable agreements. However, as described below, the Responses do not address that basic question and instead offer only generic information that does nothing to advance Trans World's knowledge about Priddis's actual claims in this action.

Buy-Out Agreement

With regard to the purported 1999 Buy-Out Agreement, Priddis cites to bates numbers 007337-007362, which consist of a spreadsheet.[2] The spreadsheet, however, creates more questions then it answers. First, it is unclear whether your client is claiming that each and every entry on the 28-page spreadsheet represents the date of an alleged breach by Trans World, which is what Interrogatory 1 asks for. Please confirm if that is the case. If that is not the case, then the spreadsheet does not answer the question posed. In addition, the terminology used to denote the columns in the spreadsheet is neither defined nor explained. For example, to what do the numbers listed under "Description" refer? To what does the term "RA" refer? Indeed, these, and other, questions serve to detract from overall understanding and thus render the Response insufficient. With no bates numbers provided for the documents cited, verifying the entries is made unnecessarily difficult.

Vendor Agreement

The Interrogatory Response for this agreement cites to bates numbers 007288-007311.[3] Included in this range are two spreadsheets. The first spreadsheet (007299) seems to be a subset of the second, but nowhere is that explained. Further, a cursory inspection of individual entries between the two spreadsheets has revealed inconsistencies. For example, entry "FRT3103CCA" in bates 007299 lists a freight charge of $1,305.93. However, the same entry in the second spreadsheet (007311) lists a freight charge of $0. This inconsistency, of course, raises questions as to the accuracy of the rest of the information provided. Please explain which entry is correct and whether the first spreadsheet is, indeed, intended to be a subset of the second. To the extent that it is, please confirm that 007299 represents the sum total of your client's claims under the Vendor Agreement for shipping charges. If it does not, please provide that information in connection with specific dates of alleged breach.

---

[2] Notably, the spreadsheet continues to bates 007364. It is unclear why the last two pages are not included in the citation.

[3] Inexplicably, this Interrogatory Response itself cites to documents, while the remainder of Interrogatory Number 1 responses refer to Document Requests.

- ***Untimely or Non-Payment***

For this claim, in addition to a multitude of documents, the Response references bates number 007330; is a one-page spreadsheet. This spreadsheet, however, provides no specific dates of breaches, but seemingly only quarterly amounts for purchases and returns the calculation of which is not explained. These generalized numbers do not serve in any way to identify specific allegations of breach which, of course is what the Interrogatory asked for. In addition, this spreadsheet was served attached to several other sheets (007326-007329). Do these pages supply underlying figures for the totals in 007330? Is so, please confirm that fact. Further, 007330 contains a notation that shaded areas are "times when TWEC orders vs. returning are worth nothing." What does this notation mean? Are the shaded "noteworthy" entries the only ones your client alleges represent breaches? If so, please so specify and if not please provide an explanation of what the notation does mean. These basic questions, and others, serve to highlight the patent deficiency of this Response and the Responses as a whole and underscore the fact that they simply do not address the actual Interrogatory questions.

- ***Anticipated Returns***

The spreadsheet referenced in relation to this claim likewise does not answer the simple question posed: *i.e.*, what did Trans World do wrong, and when did they do it? Initially, the Responses to this Interrogatory contain several seeming errors that have made it difficult to even begin an analysis. For example, the bates range cited in response (007312-007320) does not seem to include the last page of the spreadsheet (007321). Please confirm whether that page should be included. Likewise, the bates range 007327-007283 seems to begin with the last page of a previous spreadsheet. Please explain whether or not this was intentional.

With regard to more substantive issues, while the citation to two spreadsheets (007312-007320 and 0073237-007364) offers information, it does not provide an answer to the interrogatory. It appears that one spreadsheet (007312-007320) lists returns made in conjunction with credit authorization, while the second spreadsheet (007337-007364) includes all returns regardless of authorization. However, this conclusion is unsupported by any explanation provided in the Responses. Please confirm whether my understanding is correct.

Also, as with several other spreadsheets provided, there is absolutely no indication of whether they are intended to allege that each entry represents a breach of the agreement by Trans World. As the two spreadsheets seem to list the majority of the returns made by Trans World over the course of the relationships, that conclusion seems dubious. However, if that is the intention, please confirm. If that is not the intention, then please supply that essential information.

- ***Order/Return Cycle***

With regard to this issue, the Responses refer to over 150 pages of ledger sized paper, listing what seems to be every purchase and return made over the course of the agreement. Once again, the question is raised of whether it is your client's contention that every return made by Trans World during the contractual relationship was a breach. If that is not the contention, then the spreadsheets cited herein do absolutely nothing to answer the basic question raised and are thus patently insufficient.

Even aside from this bedrock deficiency, the spreadsheets are inadequate. First, the three spreadsheets cited (which, for ease of reference will be cited herein by only the beginning bates number) seem to provide the exact same data. We are, therefore, confused as to why the same information has been presented in three different ways.

007365 seems the simplest of the three, presenting the data and what we must assume (since explanation is not provided) are totals for each of the quarters. Yet, even within this spreadsheet, the data is cryptic and unclear. You provide no definition as to what the few labels provided mean. For example, the labels "RTAPES", "RDVDS", and "RCDS" (found on sheets 007365 and 007366) apparently refer to the records for tape, dvd, and cd purchases and returns, respectively. However, they apply only to their three respective rows on the spreadsheet. The numbers in these rows do not seem to relate to any of the rest of the data in the spreadsheet. There is no indication whether they are meant to represent totals, balances, initial stock, or some other value. The labels "RCDGS" (found on sheets 007365 and 007366), and "MORPH" and "MORPH1" (found on sheets 007407 and 007408) are complete mysteries to us. Furthermore, there is no indication on this spreadsheet of which data rows correspond to which item types.

007409 appears to be identical to 007365 except for the addition of unlabeled numbers at the end of each row (found on every other page). We cannot understand why you provided us with 007365, which doesn't include this data. Additionally, several unlabeled and seemingly unrelated values appear beyond this column on sheet 007410.

While not cited for some reason in this Response, 007509 appears, by our inspection, to contain the same data as 007365, 007453 and 007409, but in a slightly different format. It appears to be organized in groups by item type, and we assume that the label for each item type grouping is provided at the end of the respective groupings. Again the values in the rows labeled "RTAPES" (sheets 007509 and 007510), "RDVDS" (sheets 007529 and 007530), and "RCDS", "RCDGS", "MORPH", and "MORPH1" (sheets 007553 and 007554) are meaningless and the values in these rows are seemingly unrelated to the remainder of the data. 007509 also includes the additional rows labeled "15 SONG" (sheets 007533 and 007534) and "5 SONG" (sheets 007553 and 007554). However, while the data in this spreadsheet appears to be identical to the other three, the totals in 007509 are inexplicably and drastically different from the totals on the other two spreadsheets. For example, the total "purchased" in the 3rd quarter of 1999 on bates number 007451 is 15327. However, on bates number 007553, that total is listed as 826,294. The totals for the rest of the columns are similarly different. These wildly divergent results based on what seems to be the same information calls into question the validity of all of the information.

- ***Returns***

The substantive deficiencies of the spreadsheets referenced for this topic have been discussed above. Further, the fact that the same spreadsheets are relied upon for different Responses serves to highlight the fact that they do not speak to the specific questions presented.

- ***2% Cash Discounts***

Of all of the spreadsheets produced those referenced in this Response (007311-007366) seem the most specific and designed to address the question presented, however questions nevertheless arise. Initially, it is unclear why three seemingly identical spreadsheets were produced. If there are any substantive distinctions between the documents, please specify what they are. Second, the columns require some additional explanation. For instance, what do numbers in parentheses indicate? How do the different columns relate to each other generally? Without information regarding these questions, the data offered does not serve to adequately answer the interrogatory.

TRANS WORLD INTERROGATORY 2

The spreadsheets referenced in this answer are the same spreadsheets as Interrogatory 1, and thus suffer from the same deficiencies as described above. In addition, the reference to identical information once again highlights the fact that the Responses simply do not address the specific questions posed. For example, Interrogatory 2 asks that Priddis "identify each good that plaintiff alleges or contends that TWEC accepted and/or did not properly reject… and describe, in detail, each instance instance in which plaintiff alleges or contends that TWEC accepted those goods…" Offered in response are (1) a large collection of business records (000001- 594); (2) a spreadsheet purporting to contain sum totals of purchase and return amounts for the life of the contract (00730); and (3) two seemingly identical ledger sized spreadsheets that purport to list every purchase and return over the life of the contract (007365-007508).[4] Nowhere in these

[4] Reference to Document Request 1 is no help, as that Response cites to the entire Priddis production.

documents is any information concerning the 'specific dates" that your client claims to be examples of Trans World's breach.

TRANS WORLD INTERROGATORY 3

The Response to this interrogatory suffers from the same deficiencies as Interrogatory Number 2, as, once again, it cites to the exact same documents.

As described above, the Responses are patently inadequate and do not answer the questions posed. That the interrogatories consist of questions designed merely to ascertain the actual allegations being made in this litigation only serves to make the Responses more egregious. If you believe that a conference for the purpose of explaining the information provided would be sufficient to address the objections raised above, we would be amenable to that. However, barring such a conference that adequately addresses our concerns, it is Trans World's position that your amended Responses remain deficient.

Several other matters should also be addressed. First is the matter of your outstanding settlement offer. As you know, you have offered repeated representations that you were working with your client to calculate a reasonable offer for presentation. While the Responses contain what purport to be damage calculations, (which for the most part are the same as the numbers presented in the Complaint,) we have heard no more about the calculated offer. Please let me know if, indeed, you are planning to make a reasonable settlement offer and, if so, when we can expect to receive it.

Lastly, I was more than a little surprised to receive your letter yesterday purporting to offer deposition dates during the week of July 24th when I told you specifically during our conversation on Monday that I will be traveling for work during that week. It is simply unacceptable for you to serve on us the Responses with the deficiencies described above, and after our repeated requests over a four month period to produce your discovery, and then take the position that you are now ready to proceed. The concern expressed in your letter about the discovery deadline is the exact point I have been making for over a month.

If and when you are able to provide answers to the above-referenced questions, we will work with you to find mutually agreeable dates for depositions. If not, we will request a conference with the magistrate and seek an order precluding your client from putting on any evidence supporting their remaining claims where such information was not propounded during discovery.

Sincerely,

Robert C. Tietjen

RCT\lmr\cap
cc: Michael I. Endler
S:\wpdata\7038000\Priddis\Correspondence\Gellhaus Ltr 12.doc

EXHIBIT I

McNamee, Lochner, Titus & Williams, P.C.

ATTORNEYS AT LAW

KENNETH L. GELLHAUS
Direct Dial
(518) 447-3370
Direct Fax
(518) 447-3336
gellhaus@mltw.com

JUL 19 2006

July 17, 2006

Robert Tietjen, Esq.
Boies, Schiller & Flexner, LLP
10 North Pearl Street, 4th Floor
Albany, New York 12207

VIA TELEFAX AND MAIL

Re: Priddis Music, Inc. vs. Transworld Entertainment Corporation
Case Number: 05-CV-491

Dear Bob:

I am in receipt of your letter dated July 14, 2006. I understand from your letter that Defendant / Counterclaim-Plaintiff remains dissatisfied with Priddis Music, Inc.'s amended response to the First Set of Interrogatories and First Request for the Production of Documents previously served by your office on behalf of Transworld Entertainment Corporation.

I respectfully disagree with your view of the information delivered to you last week. I believe that the responses provided, and numerous pages of business documents and accounts produced, offer real assistance in answering the questions posed and delineate our client's specific claims in this case.

For some time, our client has been aware of the extended court deadline for disclosure of July 31, 2006. My client's two primary witnesses intend to be present in New York for the taking of their depositions next week as required by the Court's Order. My reference in my letter of July 13, 2006 to the taking of these depositions was not intended as a discourteous response to your own work travel for the final week of July. Rather, it is simply a recognition that at the present time the court discovery must be completed by the end of this month. Please confirm the availability of your own clients, for the taking of their depositions, as previously noticed by this office, during the week of July 24, 2006.

Very truly yours,

McNAMEE, LOCHNER, TITUS & WILLIAMS, P.C.

Kenneth L. Gellhaus

KLG/tlw
cc. Michael J. Hall, Esq.